102d Congress, 1st Session - - - - - - - - - - House Document 102-148

AGREEMENT ON TRADE RELATIONS BETWEEN THE UNITED STATES AND THE UNION OF SOVIET SOCIALIST REPUBLICS

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A COPY OF A PROCLAMATION THAT EXTENDS NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF THE UNION OF SOVIET SOCIALIST REPUBLICS; ALSO ENCLOSED IS THE TEXT OF THE "AGREEMENT ON TRADE RELATIONS BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS," WHICH WAS SIGNED ON JUNE 1, 1990, PURSUANT TO 19 U.S.C. 2437(a)

OCTOBER 9, 1991.—Referred to the Committee on Ways and Means and ordered to be printed

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THE WHITE HOUSE,
Washington, October 9, 1991.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: In accordance with section 407 of the Trade Act of 1974 (Public Law 93-618, January 3, 1975; 88 Stat. 1978), as amended (the "Trade Act"), I am transmitting a copy of a proclamation that extends nondiscriminatory treatment to the products of the Union of Soviet Socialist Republics. As an annex to the proclamation, I also enclose the text of the "Agreement on Trade Relations Between the United States of America and the Union of Soviet Socialist Republics," which I signed on June 1, 1990, including related annexes and exchanges of letters.

Implementation of this agreement will strengthen political relations between the United States and the Soviet Union and produce economic benefits for both countries. It will also give further impetus to the progress we have made in our overall diplomatic relations over the last several years, and help to reinforce political and economic reform in the Soviet Union.

I believe that the Agreement is consistent with both the letter and the spirit of the Trade Act. It provides for mutual extension of nondiscriminatory tariff treatment, while seeking to ensure overall reciprocity of economic benefits. It includes safeguard arrangements designed to ensure that imports from the Soviet Union will not disrupt the U.S. market.

The Agreement also confirms and expands for American Businesses certain basic rights in conducting commercial transactions both within the Soviet Union and with Soviet nationals and business entities. Other provisions include those dealing with settlement of commercial disputes, financial transactions, and government commercial disputes, financial transactions, and government commercial offices. Through this Agreement, the Soviet Union also undertakes obligations to modernize and upgrade very substantially its protection of all forms of intellectual property rights. Once fully implemented, the Soviet intellectual property regime will be on a par with that of our principal trading partners.

On December 29, 1990, I waived application of subsections (a) and (b) of section 402 of the Trade Act with respect to the Soviet Union. On June 3, 1991, I recommended an extension of the waiver authority in section 402. I included with this recommendation my determination that the continuation of the waiver in effect for the Soviet Union would substantially promote the objectives of section 402.

I urge that the Congress act as soon as possible to approve the "Agreement on Trade relations Between the United States of America and the Union of Soviet Socialist Republics" and the proc-

lamation extending nondiscriminatory treatment to the products of the Union of Soviet Socialist Republics by enactment of a joint resolution, referred to in section 151 of the Trade Act.

Sincerely,

GEORGE BUSH.

AGREEMENT ON TRADE RELATIONS BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS

By the President of the United States of America

A PROCLAMATION

1. Pursuant to the authority vested in me by the Constitution and the laws of the United States, as President of the United States of America, I, acting through duly empowered representatives, entered into negotiations with representatives of the Union of Soviet Socialist Republics to conclude an agreement on trade relations between the United States of America and the Union of Soviet Socialist Republics.

2. These negotiations were conducted in accordance with the requirements of the Trade Act of 1974 (Public Law 93–618, January 3, 1975; 88 Stat. 1978), as amended (the "Trade Act").

3. As a result of these negotiations, an "Agreement on Trade Relations Between the United States of America and the Union of Soviet Socialist Republics," including annexes and exchanges of letters which form an integral part of the Agreement, the foregoing in English and Russian, was signed on June 1, 1990, by duly empowered representatives of the two Governments and is set forth as an annex to this proclamation.

4. This Agreement conforms to the requirements relating to bilateral commercial agreements set forth in section 405(b) of the Trade Act (19 U.S.C. 2435(b)).

5. Article XVII of the Agreement provides that the Agreement shall enter into force on the date of exchange of written notices of acceptance by the two Governments.

6. Section 405(c) of the Trade Act (19 U.S.C. 2435(c)) provides that a bilateral commercial agreement providing nondiscriminatory treatment to the products of a country heretofore denied such treatment, and a proclamation implementing such agreement, shall take effect only if approved by the Congress under the provisions of that Act.

7. Section 604 of the Trade Act (19 U.S.C. 2483) authorizes the President to embody in the Harmonized Tariff Schedule of the United States the substance of the provisions of that Act, of other acts affecting import treatment, and actions taken thereunder.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to sections 404, 405, and 604 of the Trade Act of 1974, as amended, do proclaim that:

(1) This proclamation shall become effective, said Agreement shall enter into force, and nondiscriminatory treatment shall be extended to the products of the Union of Soviet Socialist Republics, in accordance with the terms of said Agreement, on the date of exchange of written notices of acceptance in accordance with Article XVII of said Agreement. The United States Trade Representative shall publish notice of the effective date in the *Federal Register*.

(2) Effective with respect to articles entered, or withdrawn from warehouse for consumption, into the customs territory of the United States on or after the date provided in paragraph (1) of this proclamation, general note 3(b) to the Harmonized Tariff Schedule of the United States, enumerating those countries whose products are subject to duty at the rates set forth in Rates of Duty Column 2 of the tariff schedule, is modified by striking out "Union of Soviet Socialist Republics".

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of October, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and sixteenth.

GEORGE BUSH.

AGREEMENT ON TRADE RELATIONS BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS

The United States of America and the Union of Soviet Socialist Republics (hereinafter referred to collectively as "Parties" and individually as "Party"),

Recognizing that the development of bilateral trade may contribute to better mutual understanding and cooperation,

Taking into account the favorable implications for trade expansion of the economic restructuring and the development of a market-based economy in the USSR,

Considering that expanded trade relations between the Parties will contribute to the general well-being of the peoples of each Party, and promote respect for internationally recognized rights of working people,

Acknowledging that the development of trade relations and direct contact between Soviet organizations and United States nationals and companies will promote openness and mutual understanding,

Considering that economic ties are an important and necessary element in the strengthening of their bilateral relations,

Reaffirming their desire to develop economic cooperation in accordance with the principles and provisions of the Final Act signed in Helsinki on the 1st of August, 1975, and other documents of the Conference on Security and Cooperation in Europe, and in accordance with the Document of the Conference on Economic Cooperation in Europe held in Bonn in March-April 1990,

Being convinced that an agreement on trade relations between the two Parties will best serve their mutual interests, and

Desiring to create a framework which will foster the development and expansion of commercial ties between Soviet organizations and United States nationals and companies,

Have agreed as follows:

ARTICLE I

MOST FAVORED NATION AND NONDISCRIMINATORY TREATMENT

1. Each Party shall accord unconditionally to products originating in or exported to the territory of the other Party treatment no less favorable than that accorded to like products originating in or exported to the territory of any third country in all matters relating to:

(a) customs duties and charges of any kind imposed on or in connection with importation or exportation, including the method of levying such duties and charges;

(b) methods of payment for imports and exports, and the international transfer of such payments;

(c) rules and formalities in connection with importation and exportation, including those relating to customs clearance, transit, warehouses and transhipment;

(d) taxes and other internal charges of any kind applied directly or indirectly to imported products; and

(e) rules concerning sale, purchase, transport, distribution, storage and use of products on the domestic market.

2. Each Party shall accord to products originating in or exported to the territory of the other Party nondiscriminatory treatment with respect to the application of quantitative restrictions and the granting of licenses.

3. Each Party shall accord to imports of products and services originating in the territory of the other Party

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nondiscriminatory treatment with respect to the allocation of the currency needed to pay for such imports.

4. The provisions of paragraphs 1, 2 and 3 shall not apply to:

(a) advantages accorded by either Party by virtue of such Party's full membership in a customs union or free trade area;

(b) advantages accorded to third countries for the facilitation of frontier traffic;

(c) advantages accorded to third countries in accordance with the General Agreement on Tariffs and Trade (the "GATT"), and advantages accorded to developing countries under the GATT and other international agreements; and

(d) actions taken under Article XI (Market Disruption) of this Agreement.

ARTICLE II

GENERAL OBLIGATIONS WITH RESPECT TO MARKET ACCESS FOR PRODUCTS AND SERVICES

1. Recognizing the mutual benefit to trade relations on the basis of this Agreement and consistent with the most favored nation principles expressed in Article I, the Parties shall, on the basis of reciprocity and without detriment to relations with third countries, improve market access for products and services of the other Party and optimize mutual commercial opportunities, including through the satisfactory reciprocation of market opening measures resulting from multilateral negotiations.

Taking the above into account and resulting from the development of market mechanisms in the Soviet Union and its closer relationship with the GATT, opportunities shall be created to increase step by step national treatment for products and services of the United States.

2. Trade in products and services shall be effected by contracts between nationals and companies of the United States and organizations of the Soviet Union concluded in the exercise of their independent commercial judgment and on the basis of customary commercial considerations such as price, quality, delivery and terms of payment.

3. Neither Party shall require or encourage Soviet organizations or U.S. nationals or companies to engage in barter or countertrade transactions. Nevertheless, where nationals, companies or organizations decide to resort to countertrade operations, the Parties will encourage them to furnish to each other all necessary information to facilitate the transaction.

4. Each Party shall accord products imported from the territory of the other Party treatment no less favorable than that accorded to like products originating in any third country in relation to technical regulations and standards, including conformity testing and certification. Furthermore, the Parties shall ensure that such technical regulations and standards are not prepared, adopted, or applied in a discriminatory manner, with a view to creating obstacles to bilateral trade, or to protect domestic production.

ARTICLE III

EXPANSION AND PROMOTION OF TRADE

1. The Parties affirm their desire to expand trade in products and services consistent with the terms of this Agreement. They shall take appropriate measures to encourage and facilitate the exchange of goods and services and to secure favorable conditions for long-term development of trade relations between Soviet organizations and United States nationals and companies.

2. The Parties shall take appropriate measures to encourage the expansion of commercial contacts with a view to increasing trade. In this regard, the Soviet Party expects that, during the term of this Agreement, Soviet organizations shall increase their orders in the United States for products and services, while the United States Party anticipates that the effect of this Agreement shall be to encourage increased purchases by United States nationals and companies of products and services from the Soviet Union. Toward this end, the Parties shall publicize this Agreement and ensure that it is made available to all interested parties.

3. The Parties shall encourage interested nationals, companies and organizations of both countries to look for opportunities to expand trade in machinery, equipment and technologies, including creation of favorable financial conditions to carry on trade in such products.

4. Each Party shall encourage and facilitate the holding of trade promotional events such as fairs, exhibitions, missions and seminars in its territory and in the territory of the other Party. Similarly, each Party shall encourage and facilitate the participation of its respective nationals, companies and organizations in such events. Subject to the laws in force within their respective territories, the Parties agree to allow the import and re-export on a duty free basis of all articles for use in such events, provided that such articles are not sold or otherwise transferred.

ARTICLE IV

GOVERNMENT COMMERCIAL OFFICES

1. Each Party shall allow government commercial offices to hire directly host country nationals and, subject to its laws and procedures on entry and residence of aliens, third country nationals.

2. Each Party shall ensure unhindered access of host country nationals to government commercial offices of the other Party.

3. Each Party shall encourage the participation of its nationals, companies and organizations in the activities of their respective government commercial offices, especially with respect to events held on the premises of such commercial offices.

4. Each Party shall create favorable conditions for access by government commercial office personnel of the other Party to host country officials at both the federal and other levels,

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representatives of state enterprises, institutes, foreign trade organizations, cooperatives, joint ventures and other organizations.

ARTICLE V

BUSINESS FACILITATION

1. Each Party shall permit the establishment within its territory of commercial representations of companies and organizations of the other Party and shall accord such representations treatment at least as favorable as that accorded to commercial representations of companies and organizations of third countries. If either Party accredits commercial representations, that Party shall establish promptly an expedited accreditation procedure. Through this procedure, a central accrediting authority shall exercise its best efforts to consider an application for accreditation and, in the case of a positive decision, to issue a certificate of accreditation to commercial representations of the other Party all within 60 days of the submission of such application. The accreditation procedure shall be administered with a goal of maximizing the participation in the market of the accrediting Party of companies already operating in that market, new entrants and small companies. Commercial representations of a Party accredited through the above procedure shall be accorded treatment no less favorable than that accorded to accredited commercial representations of third countries, except that they shall not be entitled to the

assistance of the accrediting Party in locating office and residential space.

2. Each Party shall afford commercial representations of the other Party fair and equitable treatment with respect to the conduct of their operations.

3. Each Party shall permit commercial representations of the other Party to import and use in accordance with normal commercial practices, office and other equipment, such as typewriters, photocopiers, computers and telefax machines in connection with the conduct of their activities in the territory of such Party.

4. Each Party shall permit on a nondiscriminatory basis, at nondiscriminatory prices (where such prices are set or controlled by the government), commercial representations of the other Party access to office space and living accommodations, whether or not designated for use by foreigners, as well as telecommunications, municipal and social services.

5. Each Party shall permit such commercial representations established in its territory to hire directly employees who are nationals of either Party or of third countries and to compensate such employees on terms and in a currency that is mutually agreed between the parties, consistent with such Party's minimum wage laws.

6. Each Party shall permit nationals, companies and organizations of the other Party to advertise their products and services (a) through direct agreement with the advertising media,

including television, radio, print and billboard, and (b) by direct mail, including the use of enclosed envelopes and cards preaddressed to that national, company or organization.

7. Each Party shall permit nationals, companies and organizations of the other Party to conduct market studies, either directly or by contract, within its territory. To facilitate the conduct of market research, each Party, upon request of the other Party, shall make available to interested nationals, companies and organizations of that Party, non-confidential, non-proprietary market information within its possession.

8. Each Party shall permit commercial representations to stock and provide an adequate supply of samples and replacement parts for before and after sales service on a non-commercial basis.

9. Each Party shall facilitate direct contact between end-users in its territory and nationals, companies, and organizations of the other Party. Each Party shall create favorable conditions for direct contacts between its organizations and government institutions whose decisions affect potential sales and purchases of goods and services and nationals, companies, and organizations of the other Party. Each Party shall also encourage direct commercial transactions between Soviet organizations and U.S. nationals and companies, including those which act from either side as producers, end-users or buyers.

10. Each Party shall permit nationals, companies and

organizations of the other Party to engage and serve as agents or consultants for nationals, companies or organizations of either Party and of third countries on prices and terms mutually agreed between the parties. Each Party shall permit nationals, companies and organizations of the other Party to engage its nationals, companies and organizations that act as distributors, provided that such nationals, companies or organizations are entitled to engage in such activities, on prices and terms mutually agreed between the parties.

11. Neither Party shall impose measures which unreasonably impair contractual or property rights or other interests acquired within its territory by nationals, companies and organizations of the other Party.

12. Nothing in paragraphs 1, 5 or 10 of this Article shall be interpreted to confer any rights under either Party's laws and procedures on entry and residence of aliens.

ARTICLE VI

TRANSPARENCY

1. Each Party shall make available publicly on a timely basis all laws and regulations related to commercial activity, including trade, investment, taxation, banking, insurance and other financial services, transport and labor.

2. Each Party shall provide nationals, companies and organizations of the other Party with access to available non-

confidential, non-proprietary data on the national economy and individual sectors, including information on foreign trade.

3. Each Party shall allow the other Party, when interested, the opportunity to consult on the formulation of rules and regulations which affect the conduct of business activities.

ARTICLE VII

FINANCIAL PROVISIONS RELATING TO TRADE IN PRODUCTS AND SERVICES

1. Unless otherwise agreed between the parties to individual transactions, all commercial transactions between Soviet organizations and United States nationals and companies shall be made in United States dollars or any other freely convertible currency that may be mutually agreed upon by such organizations, nationals and companies.

2. No restrictions shall be placed by either Party upon the export from its territory of freely convertible currencies, including deposits or instruments representative of such currencies, obtained in an authorized manner in connection with trade in products and services by nationals, companies and organizations of the other Party.

3. Nationals, companies and organizations of a Party holding currency of the other Party received in an authorized manner may deposit such currency in authorized financial

institutions located in the territory of the other Party and may maintain and use such currency for local expenses in accordance with applicable laws and regulations of the other Party.

4. Without derogation from paragraph 2, in connection with trade in products and services, each Party shall grant to nationals, companies and organizations of the other Party most-favored-nation treatment with respect to:

(a) opening and maintaining accounts, in both foreign and local currency, and having access to funds deposited, in financial institutions located in the territory of the Party;

(b) payments, remittances and transfers of freely convertible currencies, or financial instruments representative thereof, between the territories of the two Parties, as well as between the territory of that Party and that of any third country;

(c) rates of exchange offered by financial institutions authorized to deal in foreign exchange, and authorized means of obtaining freely convertible currencies; and

(d) the receipt and use of local currency.

ARTICLE VIII

PROTECTION OF INTELLECTUAL PROPERTY

1. Proceeding from the importance of intellectual property and the necessity of its legal protection to promote trade and economic cooperation and acknowledging the necessity of creating

more favorable conditions for adequate and effective legal protection of intellectual property and its enforcement, the Parties have agreed that they shall:

(a) ensure in accordance with the provisions of internal legislation, protection and implementation of intellectual property rights, including copyright on literary, scientific and artistic works including computer programs and data bases, patents and other rights on inventions and industrial designs, know-how, trade secrets, trade marks and service marks, trade names, and protection against unfair competition;

(b) ensure that their international commitments in the field of intellectual property rights are honored. Accordingly, each Party reaffirms the commitments made with respect to industrial property in the Paris Convention for the Protection of Industrial Property of March 30, 1883, as revised at Stockholm on July 14, 1967 (the "Paris Convention"), and the commitments made with respect to copyright in the Universal Copyright Convention of September 6, 1952; and

(c) encourage appropriate arrangements between institutions within the United States and the Union of Soviet Socialist Republics to provide protection for intellectual property rights.

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2. To provide adequate and effective protection and enforcement of intellectual property rights, each Party agrees to submit, to their respective legislative bodies, the draft laws necessary to carry out the obligations of this Article and to exert their best efforts to enact and implement these laws. In this connection, the Parties will:

(a) enhance their copyright relations through adherence to the Berne Convention for the Protection of Literary and Artistic Works (Paris 1971) (the "Berne Convention");

(b) provide copyright protection for computer programs and data bases as literary works under their copyright laws;

(c)(1) provide protection for sound recordings first fixed by their respective nationals or companies or first published in their national territory;

(c)(2) such protection shall include, among the minimum rights guaranteed to producers of these works, a right of reproduction and a right of public distribution and importation, and notwithstanding the rights of an owner of a particular copy of a sound recording in such copy, the producer of a sound recording shall continue to enjoy the exclusive commercial rental and lending rights in such copy; and

(c)(3) the Parties agree, that immediately after both Parties have enacted protection for sound recordings originating in their respective territories, to take such steps as are necessary under domestic law to extend such protection to sound recordings originating in the other Party's territory;

(d) provide product and process patent protection for all areas of technology (except the Parties may exclude materials useful solely in atomic weapons) for a term of at least 20 years from the filing of an application or at least 17 years from the grant of the patent; and

(e) provide broad protection for trade secrets.

3. Upon the date when both Parties are members of the Berne Union, the protection of works in existence prior to that date shall be determined in accordance with Article 18 of the 1971 Paris Act of the Berne Convention.

4. The Parties shall introduce in their legislative proposals the principles enumerated in the side letters to this Agreement. These side letters shall form an integral part of this Agreement.

5. The Parties agree to constitute a working group on intellectual property matters in accordance with the terms and for the purposes set forth in the side letters attached hereto.

ARTICLE IX

TRANSIT

Each Party shall facilitate the transit of products originating in the territory of the other Party and transported via the territory of the Party in accordance with the laws and regulations in force in the Party.

ARTICLE X

SUBJECTS FOR FURTHER ECONOMIC COOPERATION

1. The Parties shall take appropriate steps to foster economic cooperation on as broad a base as possible in all fields deemed to be in their mutual interest, including with respect to statistics and standards.

2. The Parties, taking into account the growing economic significance of service industries, agree to consult on matters affecting the conduct of service business between the two countries and particular matters of mutual interest relating to individual service sectors with the objective, among others, of attaining maximum possible market access and liberalization.

ARTICLE XI

MARKET DISRUPTION SAFEGUARDS

1. The Parties agree to consult promptly at the request of either Party whenever either actual or prospective imports of products originating in the territory of the other Party cause or threaten to cause or significantly contribute to market disruption. Market disruption exists within a domestic industry whenever imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry.

2. The consultations provided for in paragraph 1 shall have the objectives of (a) presenting and examining the factors relating to such imports that may be causing or threatening to cause or significantly contributing to market disruption, and (b) finding means of preventing or remedying such market disruption. Such consultations shall be concluded within sixty days from the date of the request for such consultation, unless the Parties otherwise agree.

3. Unless a different solution is mutually agreed upon during the consultations, the importing Party may (a) impose quantitative import limitations, tariff measures or any other restrictions or measures it deems appropriate, and for such period of time it deems necessary, to prevent or remedy threatened or actual market disruption, and (b) take appropriate measures to ensure that imports from the territory of the other Party comply with such quantitative limitations or other restrictions introduced in connection with market disruption. In this event, the other Party shall be free to deviate from its obligations under this Agreement with respect to substantially equivalent trade.

4. Where in the judgment of the importing Party, emergency action is necessary to prevent or remedy such market disruption, the importing Party may take such action at any time and without prior consultations provided that such consultations shall be requested immediately thereafter.

5. In the selection of measures under this Article, the Parties shall endeavor to give priority to those measures which cause least disturbance to the achievement of the goals of this Agreement.

6. The Parties acknowledge that the elaboration of the market disruption safeguard provisions in this Article is without prejudice to the right of either Party to apply laws applicable to unfair trade.

7. Each Party shall ensure that its domestic legislation and procedures for determining market disruption are transparent and afford affected parties an opportunity to submit their views.

ARTICLE XII

DISPUTE SETTLEMENT

1. Nationals, companies and organizations of either Party shall be accorded national treatment with respect to access to all courts and administrative bodies in the territory of the other Party, as plaintiffs, defendants or otherwise. They shall not claim or enjoy immunity from suit or execution of judgment, proceedings for the recognition and enforcement of arbitral awards or other liability in the territory of the other Party with respect to commercial transactions; they also shall not claim or enjoy immunities from taxation with respect to commercial transactions, except as may be provided in other bilateral agreements.

2. The Parties encourage the adoption of arbitration for the settlement of disputes arising out of commercial transactions concluded between nationals and companies of the United States and organizations of the Soviet Union. Such arbitration may be provided for by agreements in contracts between such nationals, companies or organizations, or in separate written agreements between them.

3. The parties to individual transactions may provide for arbitration under any internationally recognized arbitration rules, including the UNCITRAL Rules in which case the parties should designate an Appointing Authority under said Rules in a country other than the United States or the Soviet Union.

4. Unless otherwise agreed between the parties, the parties should specify as the place of arbitration a country, other than the United States or the Soviet Union, that is a party to the U.N. Convention on the Recognition and Enforcement of Foreign Arbitral Awards, signed in New York, June 10, 1958.

5. Nothing in this Article shall be construed to prevent, and the Parties shall not prohibit, the parties from agreeing upon any other form of arbitration or dispute settlement which they mutually prefer and agree best suits their particular needs.

6. Each Party shall ensure that an effective means exists within its territory for the recognition and enforcement of arbitral awards.

ARTICLE XIII

NATIONAL SECURITY

The provisions of this Agreement shall not limit the right of either Party to take any action for the protection of its security interests.

ARTICLE XIV

CONSULTATIONS

1. The Parties agree to consult periodically within the framework of the Joint US-USSR Commercial Commission to review the operation of this Agreement.

2. The Parties agree to consult promptly through appropriate channels at the request of either Party to discuss any matter concerning the interpretation or implementation of this Agreement and other relevant aspects of the relations between the Parties.

ARTICLE XV

DEFINITIONS

1. As used in this Agreement, the terms set forth below shall have the following meaning:

(a) "company," means any kind of corporation, company, association, sole proprietorship or other organization legally constituted under the laws and regulations of a Party or an internal subdivision thereof, whether or not organized for pecuniary gain or privately or governmentally owned; provided that, either Party reserves the right to deny any company the

advantages of this Agreement if nationals of any third country control such a company and, in the case of a company of the other Party, that company has no substantial business activities in the territory of the other Party or is controlled by nationals of a third country with which the denying country does not maintain normal economic relations.

(b) "commercial representation," means a representation of a company or organization of a Party.

(c) "national," means a natural person who is a national of a Party under its applicable law.

(d) "organization," means, with respect to the United States, a company of the United States and, with respect to the Soviet Union, any economic entity or enterprise (including a company) engaging in foreign trade or other commercial activities with foreign nationals or companies.

ARTICLE XVI

GENERAL EXCEPTIONS

1. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prohibit the adoption or enforcement by a Party of:

(a) measures necessary to secure compliance with laws or regulations which are not contrary to the purposes of this Agreement;

(b) measures for the protection of intellectual property rights and the prevention of deceptive practices as set out in Article VIII of this Agreement (and related side letters); or

(c) any other measure referred to in Article XX of the GATT.

ARTICLE XVII

ENTRY INTO FORCE, TERM AND TERMINATION

1. This Agreement (including its side letters which form an integral part of the Agreement) shall enter into force upon an exchange of diplomatic notes in which the Parties notify each other that all necessary legal requirements for entry into force have been fulfilled and shall remain in force as provided in this Article.

2. The initial term of this Agreement shall be three years, subject to paragraph 4 below.

3. This Agreement shall be extended for successive terms of three years each unless either Party has given written notice to the other Party of its intent to terminate this Agreement at least 30 days prior to the expiration of the then current term.

4. Either Party may terminate this Agreement upon written notice to the other Party and in such case the Parties will, to the fullest extent practicable, seek to minimize possible disruption to their trade relations.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Agreement.

DONE at Washington this first day of June, 1990, in duplicate, in the English and Russian languages, both texts being equally authentic.

FOR THE UNITED STATES OF AMERICA:

FOR THE UNION OF SOVIET SOCIALIST REPUBLICS:

Washington, June 1, 1990

Dear Mr. Deputy Minister:

I have the honor to confirm receipt of your letter that reads as follows:

Dear Madam Ambassador:

In connection with the signing on this date of the Agreement on Trade Relations between the Union of Soviet Socialist Republics and the United States of America (the "Agreement"), I have the honor to confirm the understanding reached by our Governments as follows:

By the Resolution of the Supreme Soviet of the U.S.S.R. of 6 March 1990, about bringing into force the Soviet Union's "Law on Property in the U.S.S.R.," the Supreme Soviet of the U.S.S.R. has charged the Council of Ministers of the U.S.S.R. in 1990 to introduce for examination by the Supreme Soviet of the U.S.S.R. drafts of the legislative acts of the U.S.S.R. governing relations on the creation and use of inventions and discoveries, scientific, literary and artistic works as well as other objects of intellectual property, which by virtue of their content will create conditions for Soviet participation in the Berne Convention for the Protection of Literary and Artistic Works (the "Berne Convention").

The Government of the U.S.S.R. will introduce in 1991 the draft laws necessary to fulfill the obligations contained in Article VIII of the Agreement and will undertake all possible measures to enact these laws during 1991. The Government of the U.S.S.R. will seek prompt implementation of these laws.

To fulfill the obligations under paragraphs 4 and 5 of Article VIII of the Agreement, the Government of the U.S.S.R. undertakes the following:

I. The Government of the U.S.S.R. shall incorporate the following principles in its legislative proposals on intellectual property:

The Honorable Yuri N. Chumakov
Deputy Minister of Foreign Economic Relations
Union of Soviet Socialist Republics

COPYRIGHT PROTECTION FOR COMPUTER SOFTWARE

1. Copyright protection for computer programs shall extend to all types of computer programs including application programs and operating systems which may be expressed in any language, whether in source or object code and regardless of their medium of fixation.

2. The duration and level of protection for computer programs shall be consistent with that provided to other literary works.

3. Limitations on rights expressly permitted to apply to literary works under the Paris Act of the Berne Convention shall also be made applicable to computer programs. In addition, owners of a copy of a computer program shall be provided the right:

(3.1) to make or authorize the making of a single copy or adaptation of that computer program provided:

(3.1.1) that such new copy or adaptation is created as an essential step in the utilization of the computer program -- in conjunction with a machine and that it is used in no other manner, or

(3.1.2) that such a new copy or adaptation is for archival purposes only and that all archival copies are destroyed -- in the event that continued possession of the computer program should cease to be rightful.

PROTECTION AGAINST UNFAIR COMPETITION, INCLUDING PROTECTION OF TRADE SECRETS

1. Protection against unfair competition will be implemented in accordance with the provisions of Article 10*bis* and Article 10*ter* of the Paris Convention for the Protection of Industrial Property.

2. Trade secrets include any formula, device, compilation of information, computer program, pattern, technique or process that is used or could be used in the owner's business and has actual or potential economic value from not being generally known.

3. A trade secret shall be protected whether such trade secret is of a technical or commercial nature, provided that it:

(3.1) has actual or potential commercial value from not being known to the relevant public;

(3.2) is not readily accessible in a lawful manner; and

(3.3) has been subject to appropriate measures to keep it secret.

The trade secret shall be protected as long as these conditions exist.

4. The appropriation, disclosure, and use of a trade secret without the consent of the owner shall be unlawful.

5. Efforts to commercially exploit the trade secret shall not be hindered or impeded by imposing excessive or discriminatory conditions or conditions that dilute the value of the trade secret.

II. The Government of the U.S.S.R. shall provide for a review of the following issues concerning protection of sound recordings:

1. Recognizing that the United States provides a longer term of protection for sound recordings than is in the current draft proposal of the U.S.S.R., the Government of the U.S.S.R. commits to review the question of including in the appropriate draft legislation which must be presented to the Supreme Soviet of the U.S.S.R. in 1990, a provision to provide to producers of sound recordings, a term of protection for fifty (50) years from the date of first publication of the sound recording.

2. Recognizing that the United States adheres to the Geneva Phonograms Convention, the Government of the U.S.S.R. commits to review immediately after enactment of sound recording protection, its adherence to that Convention.

III. The Government of the U.S.S.R. shall provide for a review of protection for inventions, as follows:

1. The Government of the U.S.S.R. undertakes to examine further paragraph 3 of Article 30 of the draft law "On Invention in the U.S.S.R." and to consider possible submission of proposals to the Supreme Soviet.

2. The Government of the U.S.S.R. and the Government of the United States agree to seek mutually acceptable provisions on compulsory licensing of patents in the working group provided for in paragraph 5 of Article VIII of the Agreement. Both sides will present proposals on provisions for compulsory licensing that will be fully considered by the working group including the following:

(2.1) A compulsory license to supply domestic needs may be given if:

(2.1.1) the license only permits local making of the patented invention;

(2.1.2) the license is granted to one qualified to make the invention;

(2.1.3) those seeking the license show that the combination of manufacture, use and importation of the patented invention has not satisfied the basic needs of the local market by the expiration of a period of five years from the date of the grant of the patent;

(2.1.4) those seeking the license show that the patent owner has refused to grant a voluntary license on terms in line with normal commercial practices;

(2.1.5) the patent owner does not show that his inaction is justified by the existence of legal, technical or commercial reasons;

(2.1.6) the patent owner receives reasonable and equitable compensation for the license;

(2.1.7) the license is nonexclusive;

(2.1.8) the license will be non-assignable except with that part of the enterprise or goodwill which exploits such a license;

(2.1.9) the license does not significantly prejudice the economic interests of the patent owner;

(2.1.10) the license does not create trade distortions; and

(2.1.11) decisions to grant a compulsory license and the terms of the license are made by a court and can be appealed and reviewed in accordance with national law;

(2.2) The U.S.S.R. will grant no other compulsory licenses; and

(2.3) A patent shall not be revoked except for invalidity.

Negotiations on these provisions must be concluded during 1991. The agreed provisions shall be an integral part of the Agreement.

IV. The Government of the U.S.S.R. shall establish with the Government of the United States a working group on intellectual property matters. This working group will address the following topics:

1. The exchange of information and cooperation among authorities responsible for the protection of intellectual property;

2. The implementation of intellectual property laws;

3. The review of international trends in the protection of intellectual property rights in the context of international economic and trade relations;

4. The protection of integrated circuit layout designs;

5. The protection for products that

(5.1) were not patentable subject matter in the U.S.S.R. before the effective date of the new Soviet law on inventions; and

(5.2) that were the subject of patents in the United States or other countries that were based on applications filed before the effective date of the new Soviet law on inventions.

During these consultations, specifics of this protection including, inter alia, the term and coverage will be considered; and

6. The government use of patented inventions.

I have the further honor to propose that this understanding be treated as an integral part of the Agreement. I would be grateful if you would confirm that this understanding is shared by your Government.

I have the further honor to confirm that the foregoing understanding is shared by my Government and constitutes an integral part of the Agreement.

Sincerely,

Carla A. Hills
United States Trade Representative

Washington, June 1, 1990

Dear Mr. Deputy Minister:

In connection with the signing on this date of the Agreement on Trade Relations Between the United States of America and the Union of Soviet Socialist Republics (the "Agreement"), I have the honor to confirm the understanding reached by our Governments (the "Parties") regarding cooperation in the field of tourism services as follows:

1. Both Parties shall facilitate the expansion of tourism between the United States and the Soviet Union and encourage the adoption of measures by tourist organizations and companies of both countries to satisfy the desire of tourists to learn about the lifestyles, achievements and culture of each country.

2. Taking into account the great significance of tourism in establishing mutual understanding between the peoples of the United States and the Soviet Union, and also the growth of its role in the development of economic cooperation between the two countries, the Parties agree to conclude a separate bilateral agreement on tourism.

Official Tourism Promotion Offices

1. Each Party shall seek permission of the other Party prior to the establishment of official, governmental tourism promotion offices in the other's territory.

2. Permission to open tourism promotion offices or field offices, and the status of personnel who head and staff such offices, shall be as agreed upon by the Parties, and subject to the applicable laws and regulations of the host country.

3. Tourism promotion offices opened by either Party shall be operated on a non-commercial basis. Official tourism promotion offices and the personnel assigned to them shall not function as agents or principals in commercial transactions, enter into contractual agreements on behalf of commercial organizations or engage in other commercial activities. Such offices shall not sell services to the public or otherwise compete with travel agents or tour operators of the host country.

4. Official governmental tourism offices shall exercise activities, related to the facilitation of development of tourism between the United States and the Soviet Union, including:

a) providing information about the tourist facilities and attractions in their respective countries to the public, the travel trade, and the media;

The Honorable Yuri N. Chumakov
Deputy Minister of Foreign Economic Relations
Union of Soviet Socialist Republics

b) conducting meetings and workshops for representatives of the travel industry;

c) participating in trade shows;

d) distributing advertising materials such as posters, brochures and slides, and also coordinating advertising campaigns; and

e) performing tourism market research.

5. Nothing in this side letter shall obligate either Party to open such offices in the territory of the other.

Commercial Tourism Enterprises

1. Commercial tourism enterprises, whether privately or governmentally-owned, or branches thereof shall be treated as private commercial enterprises, fully subject to all applicable laws and regulations of the host country.

2. Each Party shall ensure within the scope of its legal authority and in accordance with its laws and regulations that any company owned, controlled or administered by that Party or any joint venture therewith or any private company or joint venture between private companies, which effectively controls a significant portion of the supply of any tourism or travel-related service in the territory of that Party shall provide those services to nationals and companies of the other Party on a fair and equitable basis.

Nothing in this letter or in the Agreement shall be construed to mean that tourism and travel-related services shall not receive the benefits from that Agreement as fully as all other industries and sectors.

I have the further honor to propose that this understanding be treated as an integral part of the Agreement. I would be grateful if you would confirm that this understanding is shared by your Government.

Sincerely,

Robert A. Mosbacher
Secretary of Commerce
United States of America

Washington, June 1, 1990

Dear Mr. Deputy Minister:

In connection with the Agreement on Trade Relations Between the United States of America and the Union of Soviet Socialist Republics ("Agreement") to be signed today, I have the honor to confirm the understanding reached by our Governments as follows:

Upon the extension of most-favored-nation treatment by the United States of America to the Union of Soviet Socialist Republics in accordance with the terms of said Agreement, and after the date on which a note from the Government of the United States of America is delivered to the Government of the Union of Soviet Socialist Republics stating that the Government of the United States has, accordingly, made available most-favored-nation treatment for the Union of Soviet Socialist Republics no less favorable than that provided in an Agreement between the Governments of the United States of America and the Union of Soviet Socialist Republics Regarding Trade signed on October 18, 1972, the balance of $674,000,000 in payment of lend lease accounts shall become due, and shall be paid, in accordance with the terms of the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding Settlement of Land Lease, Reciprocal Aid and Claims, signed October 18, 1972.

The Government of the United States of America undertakes not to deliver the diplomatic note referred to above until export credits, guarantees and insurance through the Export-Import Bank and other similar credits for the purchase of American goods are available to the Union of Soviet Socialist Republics on terms appropriate to the transactions, in accordance with the exchange of letters between Mr. Willis C. Armstrong and Mr. V. Alkhimov dated May 15, 1972.

I have the further honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments.

Sincerely,

Carla A. Hills
United States Trade Representativ

The Honorable Yuri N. Chumakov
Deputy Minister of Foreign Economic Relations
Union of Soviet Socialist Republics

Washington, June 1, 1990

Dear Mr. Deputy Minister:

I have the honor to confirm receipt of your letter which reads as follows:

Dear Madam Ambassador:

In connection with the signing on this date of the Agreement on Trade Relations between the Union of Soviet Socialist Republics and the United States of America (the "Agreement"), I have the honor to confirm the understanding reached by our Government as follows:

1. The Soviet Union intends in the near future to accede to the Convention Establishing the Customs Co-operation Council.

2. Beginning from January 1, 1991 the Harmonized Commodity Description and Coding System shall be implemented in the Soviet Union.

I have the further honor to propose that this understanding be treated as an integral part of the Agreement. I would be grateful if you would confirm that this understanding is shared by your Government.

I have the further honor to confirm that the foregoing understanding is shared by my Government and constitutes an integral part of the Agreement.

Sincerely,

Carla A. Hills
United States Trade Representati

The Honorable Yuri N. Chumakov
Deputy Minister of Foreign Economic Relations
Union of Soviet Socialist Republics

Washington, June 1, 1990

Dear Mr. Deputy Minister:

In connection with the signing on this date of the Agreement on Trade Relations between the United States of America and the Union of Soviet Socialist Republics (the "Agreement"), I have the honor to confirm the understanding reached by our Governments (the "Parties") as follows:

1. The Parties recognize that trade in textiles and textile products is generally governed by separate arrangements.

2. The provisions of paragraph 2 of Article I of the Agreement (quantitative restrictions) shall not apply to trade in textiles and textile products.

3. The elaboration of the market disruption safeguard provisions in Article XI of the Agreement (market disruption) is without prejudice to the right of either Party to apply any of its laws and regulations applicable to trade in textiles and textile products.

4. Nothing in this side letter or in the Agreement limits the application of any existing or future agreement between the Parties on trade in textiles and textile products.

I have the further honor to propose that this understanding be treated as an integral part of the Agreement. I would be grateful if you would confirm that this understanding is shared by your Government.

Sincerely,

Carla A. Hills
United States Trade Representative

The Honorable Yuri N. Chumakov
Deputy Minister of Foreign Economic Relations
Union of Soviet Socialist Republics

Washington, June 1, 1990

Dear Mr. Deputy Minister:

In connection with the signing on this date of the Agreement on Trade Relations between the United States of America and the Union of Soviet Socialist Republics (the "Agreement"), I have the honor to confirm the understanding reached by our Governments as follows:

1. In order to foster increased commercial activities and economic cooperation, the Government of the Union of Soviet Socialist Republics and the Government of the United States of America (the "Parties") agree to undertake the following activities:

a. to encourage their respective nationals, companies and organizations to develop, publish and provide directly, directories of nationals, companies and organizations involved in foreign trade and their officers, as well as other information useful in contacting and evaluating potential business partners, and lists of government agencies and officers involved in foreign trade policy and regulation; and

b. to create favorable conditions for access to nonproprietary and nonconfidential commercial information useful in evaluating potential business partners such as their financial reports, profit and loss statements, and experience in foreign trade.

2. Noting the particular needs of small and medium-sized enterprises in expanding trade, the Parties agree to pay attention to and provide appropriate support for small and medium-sized enterprises by promoting business cooperation networks which facilitate the search for business partners, access to publications and data bases, and information on the availability of technical innovations.

3. Any commercial representation designated as a foreign mission is not guaranteed the rights provided for in Article V of the Agreement.

I have the further honor to propose that this understanding be treated as an integral part of the Agreement. I would be grateful if you would confirm that this understanding is shared by your Government.

Sincerely,

Robert A. Mosbacher
Secretary of Commerce
United States of America

The Honorable Yuri N. Chumakov
Deputy Minister of Foreign
Economic Relations
Union of Soviet Socialist Republics

Washington, June 1, 1990

Dear Mr. Deputy Minister:

In connection with the signing on this date of the Agreement on Trade Relations Between the United States of America and the Union of Soviet Socialist Republics (the "Agreement"), I have the honor to confirm the understanding reached by our Governments as follows:

With respect to paragraph 3 of Article VII of the Agreement, the Soviet Party will give favorable consideration to requests by nationals and companies of the United States to open and maintain deposit accounts in Soviet currency received in an authorized manner and to use such currency for local expenses in accordance with permission granted. Such permission shall remain in force irrespective of possible future Soviet laws and regulations which would restrict conditions of the holding, use or deposit of Soviet currency by foreign nationals or companies.

I have the further honor to propose that this understanding be treated as an integral part of the Agreement. I would be grateful if you would confirm that this understanding is shared by your Government.

Sincerely,

Carla A. Hills
United States Trade Representativ

The Honorable Yuri N. Chumakov
Deputy Minister of Foreign Economic Relations
Union of Soviet Socialist Republics

Washington, June 1, 1990

Dear Mr. Deputy Minister:

In connection with the signing on this date of the Agreement on Trade Relations between the United States of America and the Union of Soviet Socialist Republics (the "Agreement"), I have the honor to confirm the understanding reached by our Governments as follows:

1. The Government of the United States will, during 1990, request that the United States Congress repeal the prohibition on the importation into the United States of gold coins from the Soviet Union and will take all possible measures to ensure the repeal of this prohibition by December 31, 1991.

2. Until such time as the prohibition is repealed, paragraphs 1, 2 and 3 of Article I of the Agreement shall not apply to the importation into the United States of America of gold coins.

I have the further honor to propose that this understanding be treated as an integral part of the Agreement. I would be grateful if you would confirm that this understanding is shared by your Government.

Sincerely,

Carla A. Hills
United States Trade Representative

The Honorable Yuri N. Chumakov
Deputy Minister of Foreign Economic Relations
Union of Soviet Socialist Republics

ANNEX 1

THE STATUS OF THE COMMERCIAL OFFICE OF THE UNITED STATES OF AMERICA IN THE UNION OF SOVIET SOCIALIST REPUBLICS

ARTICLE 1

The Commercial Office of the United States of America may perform the following functions:

1. Promote the development of trade and economic relations between the United States of America ("USA") and the Union of Soviet Socialist Republics ("USSR"); and

2. Provide assistance to nationals and companies of the USA in facilitating purchases, sales and other commercial transactions. The Commercial Office, and its respective officers and staff members, shall not participate in the negotiation, execution or fulfillment of trade or commercial transactions or otherwise carry on trade.

ARTICLE 2

1. The Commercial Office shall consist of one Principal Officer and no more than three Deputy Officers and a mutually agreed number of staff personnel, provided, however, that the number of officers and staff personnel permitted may be changed by mutual agreement of the two Governments.

2. The Commercial Office shall be an integral part of the Embassy of the USA in Moscow. The Government of the USSR shall facilitate in accordance with its laws and regulations the acquisition or lease by the Government of the USA of suitable official and residential premises for the Commercial Office and its staff.

3. (a) The Commercial Office, including all of its premises and property, shall enjoy all of the privileges and immunities which are enjoyed by the Embassy of the USA in Moscow. The Commercial Office shall have the right to use cipher.

(b) The Principal Officer of the Commercial Office and his Deputies shall enjoy all of the privileges and immunities which are enjoyed by members of the diplomatic staff of the Embassy of the USA in Moscow.

(c) Members of the administrative, technical and service staffs of the Commercial Office who are not nationals of the USSR shall enjoy all of the privileges and immunities which are enjoyed by corresponding categories of personnel of the Embassy of the USA in Moscow.

ANNEX 2

THE STATUS OF THE TRADE REPRESENTATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE UNITED STATES OF AMERICA

ARTICLE 1

The Trade Representation of the Union of Soviet Socialist Republics may perform the following functions:

1. Promote the development of trade and economic relations between the Union of Soviet Socialist Republics ("USSR") and the United States of America ("USA"); and

2. Provide assistance to Soviet organizations in facilitating purchases, sales and other commercial transactions. The Trade Representation, and its respective officers and staff members, shall not participate in the negotiation, execution or fulfillment of trade or commercial transactions or otherwise carry on trade.

ARTICLE 2

1. The Trade Representation shall consist of one Principal Officer, designated as Trade Representative, and no more than three Deputy Officers and a mutually agreed number of staff personnel, provided, however, that the number of officers and staff personnel permitted may be changed by mutual agreement of the two Governments.

2. The Trade Representation shall be an integral part of the Embassy of the USSR in Washington, D.C. The Government of the USA shall facilitate in accordance with its laws and regulations the acquisition or lease by the Government of the USSR of suitable official and residential premises for the Trade Representation and its staff.

3. (a) The Trade Representation, including all of its premises and property, shall enjoy all of the privileges and immunities which are enjoyed by the Embassy of the USSR in Washington, D.C. The Trade Representation shall have the right to use cipher.

(b) The Trade Representative and his Deputies shall enjoy all of the privileges and immunities which are enjoyed by members of the diplomatic staff of the Embassy of the USSR in Washington, D.C.

(c) Members of the administrative, technical and service staffs of the Trade Representation who are not nationals of the USA shall enjoy all of the privileges and immunities which are enjoyed by corresponding categories of personnel of the Embassy of the USSR in Washington, D.C.

DEPUTY UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C. 20506

SEP 26 1990

The Honorable Yuri N. Chumakov
Head of Soviet Delegation
Deputy Minister of Foreign Economic Relations
Ministry of Foreign Economic Relations
Union of Soviet Socialist Republics

Dear Mr. Chumakov:

I have the honor to refer to the Agreement on Trade Relations between the United States of America and the Union of Soviet Socialist Republics, signed in Washington on June 1, 1990 (the "Agreement").

During the negotiation of the Agreement, our delegations discussed the desirability of including in Article XVII paragraph 4 a provision requiring 60 days written notice prior to termination. As I noted in my letter to you of May 31, 1990 (attached), U.S. legislation did not then permit the inclusion of such a provision.

On August 20, 1990, the President signed into law the Customs and Trade Act of 1990 which, among other things, would permit the inclusion of such a notice period. I therefore have the honor to propose that paragraph 4 of Article XVII be amended by inserting the phrase "sixty days" before the phrase "written notice" so that paragraph 4 would read in its entirety as follows:

> "4. Either Party may terminate this Agreement upon sixty days written notice to the other Party and in such case the Parties will, to the fullest extent practicable, seek to minimize possible disruption to their trade relations."

I have the further honor to propose that, if the foregoing is acceptable, this letter and your affirmative letter in reply shall constitute an agreement between the United States of America and the Union of Soviet Socialist Republics to amend the Agreement which shall enter into force upon the entry into force of the Agreement.

Sincerely,

Julius L. Katz
Head of U.S. Delegation

DEPUTY UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C. 20506

MAY 31 1990

The Honorable Yuri N. Chumakov
Head of Soviet Delegation
Deputy Minister of Foreign Economic Relations
Ministry of Foreign Economic Relations
Union of Soviet Socialist Republics

Dear Mr. Chumakov:

I am writing to you at your request to explain the relation between legislation currently pending in the U.S. Congress and paragraph 4 of Article XVII of the Trade Agreement we have negotiated.

As you know, under current U.S. law, it is not possible to have a notice period prior to termination of the Trade Agreement. Therefore, our two delegations have agreed that paragraph 4 of Article XVII will read as follows:

> "4. Either Party may terminate this Agreement upon written notice to the other Party and in such case the Parties will, the fullest extent practicable, seek to minimize possible disruption to their trade relations."

As part of legislation currently in conference between the House of Representatives and the Senate, we have asked that a provision be added which would permit some notice period. We have suggested to Congress that this period be sixty days. We do not know when or if such legislation will be passed by Congress. If such a provision is enacted into law before the Trade Agreement is signed, paragraph 4 could be amended by inserting the phrase "sixty days" before the phrase "written notice." If the legislation is enacted after the Trade Agreement is signed, I would suggest an exchange of letters which would clarify that the Parties would give each other sixty days notice prior to termination.

I trust that this explanation is helpful to you.

Sincerely,

Julius L. Katz
Head of U.S. Delegation

[INFORMAL TRANSLATION]

October 31, 1990

Dear Mr. Katz:

I have the honor to confirm receipt of your letter of September 26, 1990 which reads as follows:

[See text of Ambassador Katz's letter.]

I have the further honor to confirm that your proposal is acceptable, and that your letter and this letter in reply constitute an agreement between the Union of Soviet Socialist Republics and the United States of America to amend the Agreement which shall enter into force upon the entry into force of the Agreement.

Sincerely,

/s/

Yuri N. Chumakov
Head of Soviet Delegation

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